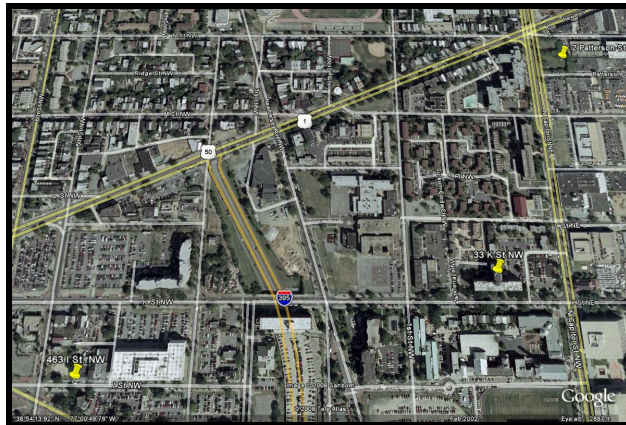




Government of the District of Columbia

SOLICITATION FOR OFFERS

Assorted Parking Opportunities



Issued by:

The Government of the District of Columbia
Office of the Deputy Mayor for Planning and Economic Development

John A. Wilson Building
1350 Pennsylvania Ave NW, Suite 317
Washington, D.C. 20004
<http://dcbiz.dc.gov/>

Responses due by: December 8, 2008



Government of the District of Columbia
SOLICITATION OUTLINE

1 Introduction

Purpose of Solicitation for Offers
Opportunity to Utilize District-owned Property

2 Property Overview

Property Characteristics
Ownership and Property Conditions
Aerial Views of Properties

3 Preferences

Parking Plan Preferences
Preferences for Local, Small and Disadvantage Business Enterprises
Pricing Proposal Preferences
Parking Operations Plan

4 Operating Requirements

Maintenance and Repair
Alterations and Improvements
Use of Premises
Insurance
Indemnity
Taxes and Assessments
Miscellaneous Provisions

5 Submission Requirements and Selection Process

Offeror Submissions
Submission Requirements
Selection Process and Selection Panel
Project Review
Conflict of Interest
Selection Process Timetable
Award

6 Reservation of Rights and Miscellaneous Provisions

District Reservations
Notice of Modifications
Changes in Offeror Information
Ownership and Use of Offers
Restricted Communications
Non-Binding
Confidentiality
Non-Liability
Other Limiting Conditions



Government of the District of Columbia

1 Introduction

Along with its private sector partners, the Government of the District of Columbia (the “District”) is leading a revolutionary charge to redevelop underutilized District-owned property. In addition to stimulating economic development for the District of Columbia (“D.C.”), the redevelopment projects bring charming amenities, convenient services and mixed-income housing to District of Columbia (“D.C.”) neighborhoods and residents. The District and its partners invest significant time and resources to accomplish these two long term goals.

To maximize the utility of its assets in the short term however, the District is willing to enter into a “use agreement” under which the chosen respondent(s) will pay a fee for use of the District-owned property and will accept responsibility for the payment of all operating expenses and capital investments. The District, through the Office of the Deputy Mayor for Planning and Economic Development (“ODMPED”), is pleased to issue this Solicitation for Offers (“Solicitation”) and invites Local Small and Disadvantaged Business Enterprises (“LSDBE”) to respond. The District seeks to award to one or more highly-qualified teams (“Offerors”) opportunities to improve and operate fee-based parking lots on several District properties. These properties are located throughout D.C. and cover a variety of footprints.



Government of the District of Columbia

1.1 Purpose of Solicitation for Offers

The ODMPED is responsible for implementing economic development initiatives and policies on behalf of the Mayor of the District of Columbia (the “Mayor”). Through this Solicitation, the ODMPED offers several opportunities through which successful Offerors would be allowed to create parking lots on vacant parcels. Successful Offerors will negotiate a Use Agreement with the District.

Interested parties are strongly encouraged to respond to this Solicitation. Offerors will be expected to participate in a transparent and collaborative selection process involving the District, the ODMPED, and community stakeholders. Offers submitted in response to this Solicitation must comply with the preferences and requirements set forth in Sections 3 and 4. Offerors may contact the following ODMPED representative via email only for additional information on the Parking Opportunities Project (the “Project”).

Yohance S. Fuller
Project Manager
Office of the Deputy Mayor for
Planning and Economic Development
2025 M Street, NW, Suite 600
Washington, D.C. 20036
yohance.fuller@dc.gov

Responses to this Solicitation are due by December 8, 2008 at 5:00 PM ET.

Opportunity to Utilize District-owned Property

The properties offered for parking opportunities are located in key revitalization areas of D.C. In total, the District is offering 3 properties that cover approximately 188,057 square feet of surface area. The respective properties vary in size within a range of 21,000 to 125,000 square feet. Most properties are unimproved and will have to be resurfaced to suit parking uses. In their proposals, Offerors may request to utilize all or individual properties.



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2 Property Overview

2.1 Property Characteristics

An overview of the properties is provided below.

# of PARCELS	SQ.	LOT	ADDRESS	TOTAL APPROX. SURFACE AREA (sf)
1	516	59	463 I Street NW	20,641
1	672	245	2 Patterson Street NE	42,252
1	621	246	33 K Street NW	125,164
3				188,057

2.2 Ownership and Property Conditions

All properties are owned by the District and may be awarded to successful Offeror(s) who wish to use them for fee-based parking purposes. The District and the successful Offeror(s) will negotiate fees for use and execute a use agreement(s) that will permit use of the properties for two to five year terms with an option to extend on a month-to-month basis at the sole discretion of the District. The execution of the Use Agreement will follow the selected Offeror's acquisition of the appropriate permits.

The Property will be awarded in "as-is" condition, without warranties. The District makes no representations regarding the character or extent of soil or subsurface conditions.

Note: 463 I Street NW (5th and Eye Street) was recently awarded for mixed-use redevelopment purposes. The site will remain vacant for 18 – 24 months, after which development will proceed. Offerers are encouraged to pursue a 12 - 24 month with a renewable month-to-month option use agreement for this specific site.

Note: 33 K Street NW is the site location for Temple Courts Apartments which is scheduled to be demolished on or before December 2008. Upon demolition completion, all debris will be removed from the site and the property will remain vacant.

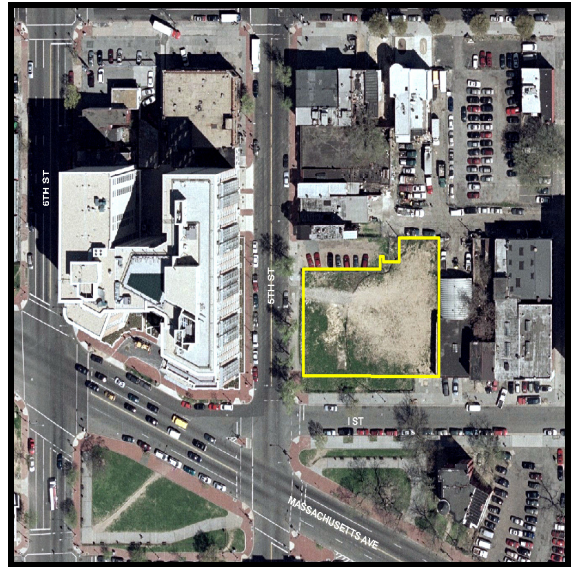


Government of the District of Columbia

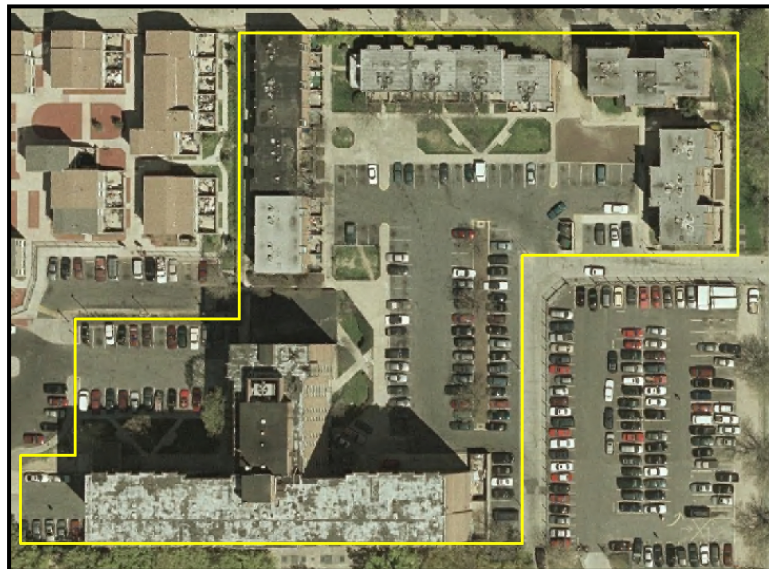
2.3 Aerial Views of Properties



2 Patterson Street NE



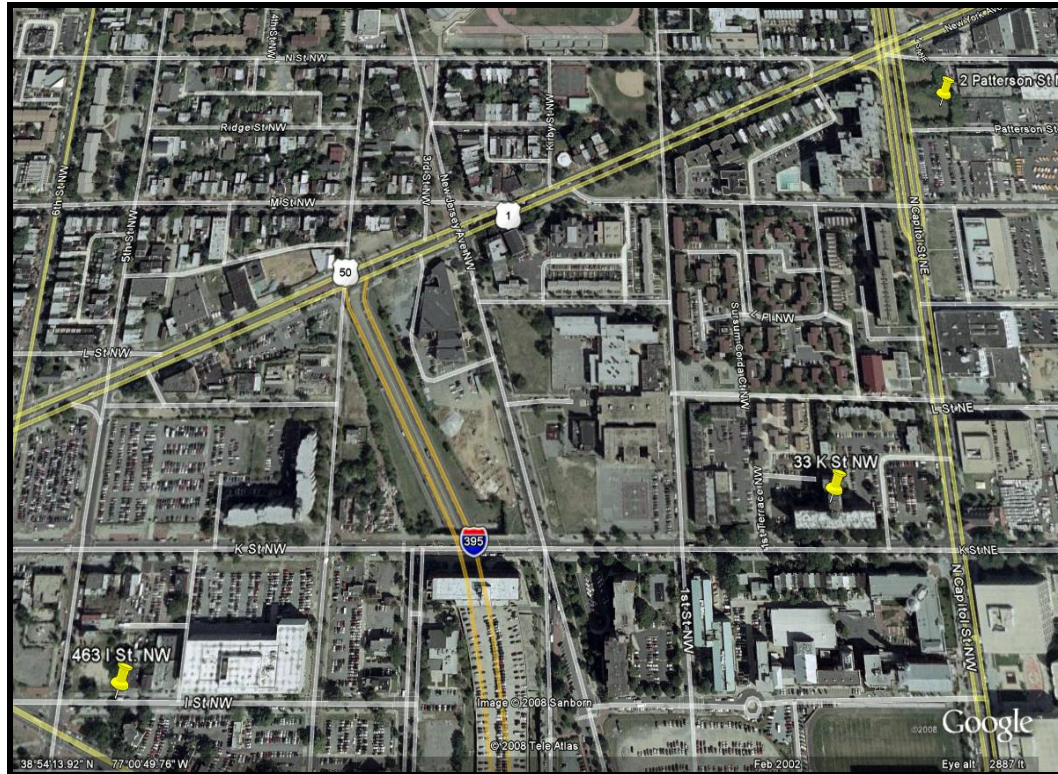
463 I Street NW



33 K Street NW



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Property Location Summary

3 Preferences

3.1 Parking Plan Preferences

Preference will be given to Offerors who:

- 3.1.1 Demonstrate one hundred percent (100%) Local, Small and Disadvantaged Business Enterprises (“LSDBE”) participation and provide contracting opportunities for Certified Business Enterprises (“CBE”). All LSDBEs and CBEs referred to herein must be certified by the D.C. Department of Small and Local Business Development (“DSLBD”).
- 3.1.2 Employ local residents in the operation of the parking lots
- 3.1.3 Submit with their offers conceptual design drawings that illustrate how the properties will be redeveloped into parking lots, including the layout and number of spaces.
- 3.1.4 Consider all applicable Federal and District laws when preparing their development plans.



Government of the District of Columbia

3.2 Local, Community and Business Preferences

Preference will be given to Offerors who:

- 3.2.1 Submit detailed plans that demonstrate the employment of local residents in the development and operation of the parking lots

3.3 Pricing Proposal Preferences

Preference will be given to Offerors who:

- 3.3.1 Include pricing proposals that provide the greatest economic benefits to the District and that include sound reasoning that supports the proposed Use Agreement Fee structures.

- 3.3.2 Provide funding plans, including sources and uses tables and multi-year pro-forma operating budgets.

3.4 Parking Operations Plan.

The Offeror should submit a parking operations plan that includes but is not limited to the following details:

- (1) Pavements
- (2) Staffing
- (3) Entrances/exits
- (4) Hours of operation
- (5) Revenue control
- (6) Parking Rates
- (7) Maintenance
- (8) Security



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4 Operating Requirements

The District and the selected Offeror(s) (“Operator”) shall enter into a use agreement containing the following minimum terms governing the use and operation of the awarded site(s) (“Premises”):

4.1 Maintenance and Repair

4.1.1 Operator agrees to use reasonable diligence in the care, protection and maintenance of the premises during the term of the use agreement, and to surrender the premises at the termination of the agreement in good condition.

4.1.2 Subject to the Operator having obtained all requisite governmental approvals, the Operator shall have the right to do any or all of the following: install and alter driveways, curb cuts, and paving, and plant and remove trees and shrubs.

4.2 Alterations and improvements

Operator may, with the approval of the District, make alterations and capital improvements, including the installation of appropriate signage and revenue collection fixtures and/or equipment, lot grading and paving at the Operator’s expense, to the Premises as deemed necessary.

4.3 Use of Premises

The Premises shall be used by the Operator for the purpose of operating commercial parking lots and garages for use by the general public, and for the sale of such merchandise and services as are ancillary to the operation of a commercial parking lot including, but not limited to, vending machines and advertising media.

4.4 Insurance

Prior to commencement, and during the term of this Use Agreement, Operator agrees to maintain the following types of insurance with limits not less than those set forth below and to have Lessor included as additional insured with respect to Lessee’s operation of the Premises:

Commercial General Liability	\$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury and property damage.
Umbrella Excess Coverage	\$11,000,000
Garagekeeper’s Legal Liability	\$5,000,000 combined single limit each occurrence.
Crime: Policy Limits	\$1,000,000 commercial blanket



Government of the District of Columbia

4.5 Indemnity

4.5.1 The Operator will defend, indemnify and hold the District harmless from and against any and all actions, costs, claims, losses, expenses and/or damages sustained by Operator attributable to the recklessness, carelessness or negligence of Operator or any of its agents, or employees from any cause, including, property damage and/or injury or death to any person or persons.

4.5.2 Any actions, costs, claims, losses, expenses and/or damages resulting from design or structural faults or defects are the responsibility of the Operator.

4.6 Taxes and Assessments

The Operator will be responsible for payment of all property taxes and special assessments on the Premises.

4.7 Miscellaneous Provisions

4.7.1 The use agreement will be conditioned upon the ability of the Operator to obtain all necessary and requisite licenses, permits and/or other authorization from the District authorities having jurisdiction over the Premises in order to operate an off street automobile parking facility.

4.7.2 The Operator shall pay all utility charges resulting from the Operator's use of the Premises.

4.7.3 Any structural, mechanical, electrical, or other installations or any alterations required by statutes or regulations pertaining to air quality, environmental protection, provisions for persons with disabilities, or other similar governmental requirements shall be the sole responsibility of the Operator.



Government of the District of Columbia

5 Submission Requirements and Selection Process

5.1 Offeror Submissions

- 5.1.1 An Offeror shall submit with its response to the Solicitation to the District a deposit in the amount of Twenty-Five Thousand dollars (\$25,000), in the form of a standby, irrevocable, letter of credit. The deposit shall secure an Offeror's bid in accordance with this Solicitation and will be held by the District until a selection of a successful offer(s) is determined. If an Offeror's proposal is not selected, then the letter of credit shall be returned to such Offeror. If an Offeror's proposal is selected, then the letter of credit will be considered a non-refundable deposit until the Use Agreement is executed.
- 5.1.2 A pre-proposal conference will be held in accordance with the schedule in Section 4.6. For those who intend to respond to this Solicitation, attendance at the pre-proposal conference is strongly encouraged. The purpose of the conference and site visit is to provide a forum for all interested parties to network and discuss the Project. If ODMPED determines, in its sole discretion, that any discussions or questions at the pre-proposal conference require additions and/or deletions to this Solicitation, or any other related document, the ODMPED, in its sole discretion, will make such additions and/or deletions in writing and post them on the ODMPED's website, <http://dcbiz.dc.gov/>.
- (1) At a minimum, all offers shall address all preferences stated in Section 3 and all requirements stated in this Section 4. Offers submitted without addressing all such items may, in ODMPED's sole discretion, be deemed incomplete and withdrawn from award consideration.
 - (2) Offerors should adhere to the following format:
 - shall be typed in 12-point font on 8½" x 11" standard letter-size paper
 - shall have material on one (1) side only
 - shall be bound on the long side
 - shall have tabs to separate sections
 - shall not exceed 10 pages per site requested, not including credit references, LOIs, MOUs, renderings, excel-based worksheets/models, tables, charts, etc.
 - (3) Offer materials will not be returned.



Government of the District of Columbia

- (4) Each Offeror must submit ten (10) printed, bounded copies to the ODMPED representative listed below by **5:00 PM ET on December 8, 2008**.

Yohance S. Fuller
Project Manager
Office of the Deputy Mayor for
Planning and Economic Development
2025 M Street, NW, Suite 600
Washington, D.C. 20036
yohance.fuller@dc.gov

- 5.1.3 While the District, through the ODMPED, may enter into negotiations with an Offeror based on its offer submitted in response to this Solicitation, this Solicitation does not commit the ODMPED or the District to select any Offerors or to enter into negotiations with any Offerors that may respond. The ODMPED, in its sole discretion, reserves the right to reject any offer it deems incomplete or unresponsive to the submission requirements, to amend this Solicitation, or to reject all offers and re-issue a Solicitation at a later date.
- 5.1.4 After review of one or more offers, the ODMPED, in its sole discretion, may request additional information from some or all Offerors.
- 5.1.5 Team members may participate in submissions from more than one Offeror. If an Offeror wishes to change the composition of the proposed development team at any time in the selection process after it has submitted its offer to the ODMPED, the Offeror must notify the ODMPED in writing. The ODMPED reserves the right to evaluate the proposed change to the development team and eliminate the Offeror from further consideration, in ODMPED's sole discretion. The ODMPED will require similar notification and approval rights of any change to the development team following the award, if any.
- 5.1.6 An Offeror may submit improvement plans and pricing proposals for single or multiple sites. The District, through the ODMPED, reserves the right to reward multiple sites to a single Offeror.
- 5.2 Submission Requirements
Offerors shall respond to each item included in this Section 5.2 in the order it is presented below and separate each item with tabs marked to indicate the section number. Offerors should include site plans, tables, charts, and any other applicable documents, to the extent possible.



Government of the District of Columbia

5.2.1 Executive Summary

The Offeror shall provide a summary with a focus on the Offeror's vision for the project. While the Summary will not be a formal evaluation factor, it will be used as part of an integrated assessment of the Offeror's qualifications. In its executive summary, an Offeror shall articulate the Offeror's vision and implementation strategy for the Project.

5.2.2 Team Members

An Offeror shall identify the following key team members of the team: lead operator (firm or joint venture partners), LSDBE equity and operating partners. No other team members should be identified. An Offeror shall include:

- (1) Name, address, telephone number, and fax number for each team member;
- (2) Each principal, partner, or entity that composes each team member and such team member's roles or titles within the entity comprising the Offeror;
- (3) Name, address, telephone number, fax number, and e-mail address of the representative authorized to act on behalf of the Offeror, who will be available to respond to questions or requests for additional information;
- (4) Any affiliation or relationship between any of the members of the Offeror and any, parent company, or subsidiary;
- (5) Any personal or professional relationship among or between any members of the Offeror and any person working for, appointed to a position in, or elected to an office of the District or any entity for which there may be a conflict of interest or the appearance of a conflict. The District, in its sole discretion, reserves the right to determine a conflict of interest or the appearance thereof; and
- (6) Satisfactory evidence with respect to the Offeror and its team members that all tax liabilities and other government impositions are current and that there is no ongoing litigation in which the District is a party that relates to any team member as the Offeror or to any other entity or individual having a controlling interest in the entity (or entities) that comprise the Offeror (or, if such litigation exists, the name and civil action number of such litigation and a description of the subject matter of such litigation).



Government of the District of Columbia

5.2.3 Qualifications and Experience

- (1) Offerors shall identify five (5) relevant projects that demonstrate the Offeror's (including team members') primary involvement in and leadership of successful parking operations in the District of Columbia.
- (2) For each relevant project, Offeror shall provide all that apply from the following list:
 - Operating team name
 - Project title
 - Location/address of the project
 - Contracting agency/client
 - Full description of the project,
 - Period of performance
 - Name and telephone number of persons familiar with the project who may provide performance letters of recommendation and respond to inquiries from the District
- (3) Each offer shall include an organization chart and a summary of qualifications of the team's senior-level staff who will be directing this project, including a description of their roles and relevant experience;
- (4) Each offer shall include the status of the Offeror organization (whether a corporation, a non-profit or charitable institution, a partnership, a limited liability corporation, a business association, or a joint venture) indicating under which laws it is organized and operating, and a brief history of the organization and its principals. For any entity required to file reports in the jurisdiction of its formation, include a certificate of good standing for such jurisdiction and a certificate of good standing showing that it is registered in the District of Columbia;
- (5) Each offer shall include a statement regarding any debarments, suspensions, bankruptcy or loan defaults on real estate development projects and/or government contracts of Offeror or any member of the development team;
- (6) Each offer shall include references for the Offeror and its team members, including names, addresses, and telephone numbers. References should be prepared to respond to inquiries regarding appropriately similar projects;
- (7) Offerors may include other relevant information that they believe will assist the ODMPED in evaluating the capabilities of the Offeror, and any other team member who will be participating in the development. The ODMPED may request additional information from the authorized representative, if



Government of the District of Columbia

deemed necessary, in ODMPED's sole discretion, to facilitate the evaluation of an Offeror's submissions.

5.2.4 Project Implementation Strategy

- (1) Each Offeror shall provide an implementation schedule from award to operation.
- (2) Offerors shall describe their understanding of the parking demand generators for the areas in which the properties are located;
- (3) Offerors shall describe their approaches and strategies to mitigate any negative impacts on the surrounding community; and
- (4) Offerors shall describe their approaches and strategies to operate the Project.

5.2.5 Financial Capacity and Framework

- (1) Each Offeror shall include a description of its financial capacity and that of its team members. Descriptions may include, but are not limited to, audited financial statements (balance sheets, profit and loss statements, statements of cash flows);
- (2) Each Offeror shall include proposed Use fee structures between the Offeror and the District. The Offeror should assume the following:
 - The parcel, owned by the District, will be awarded to the Offeror at a mutually-acceptable, negotiated price.
 - The Use agreement will permit use of the properties for a two to five year terms with an option to extend on a month-to-month basis at the sole discretion of the district.
 - The present value of the Use Agreement will be due and paid in full at settlement. The Offeror may propose an additional alternative payment structure.
- (3) Each Offeror shall include a detailed budget (submitted on CD in Excel) for the proposed improvements for each requested site that includes a summary of the dollar per space and per square foot breakdown of each line item;
- (4) Offers shall not include funds from the District operating or capital budget (unless appropriated for such purpose on a multi-year basis) or unidentified Federal funding in the Offeror's funding plan.



Government of the District of Columbia

5.2.6 LSDBE and CBE Participation and First Source Hiring

- (1) Offerors shall include descriptions of LSDBE participation in the Project and shall demonstrate Offeror's firm commitment to meet no less than a one hundred percent (100%) participation requirement. The Offeror must submit with its offer an LOI, Memorandum of Understanding (MOU) or other binding agreement with the 100% LSDBE partner(s) that at a minimum describes the role and scope of work of each LSDBE partner.

Any offer that fails to contain an LOI, MOU, or other binding agreement with the LSDBE equity and development partners will be deemed incomplete and may be withdrawn, at ODMPED's sole discretion, from consideration;

- (2) Each Offeror shall include descriptions of CBE contracting participation in the Project and shall demonstrate Offeror's commitment to meet or exceed a 40% CBE contracting and procurement requirement; and
- (3) Each Offeror shall include a description of what specific efforts will be made to recruit District of Columbia residents for employment opportunities connected to the Project.

Prior to and as a condition of executing a Use Agreement, the selected Offeror will be required to sign a Certified Business Enterprise Utilization and Participation Agreement with the DSLBD that outlines the specific contracting requirements and the specific efforts the selected Offeror must take to fulfill these requirements.

The selected Offeror also will be required to sign a First Source Hiring Agreement with the DOES.

5.3 Selection Process and Selection Panel

- 5.3.1 The Selection Panel will evaluate responses to this Solicitation for completeness, feasibility, creativity, and measure of economic value created.
- 5.3.2 The ODMPED will determine, in its sole discretion, whether each offer received in response to this Solicitation is complete according to the guidelines set forth herein. For any offer that is considered to be incomplete, the Offeror will be notified in writing within ten (10) business days after the submission deadline. The decision of



Government of the District of Columbia

the ODMPED in this regard is final and will be explained to the Offeror upon request.

- 5.3.3 A Selection Panel will be established to review and evaluate the Offers submitted in response to this Solicitation and to select, in its sole discretion, one (1) or more of the Offers, or if it determines in its sole discretion none of the Offers. The Selection Panel may consult with the ODMPED consultants for technical assistance.
- 5.3.4 Offerors shall present their offers to the Selection Panel and perhaps the affected community stakeholders. The community may provide feedback to the Selection Panel for its consideration. The Selection Panel will evaluate each offer based on the criteria set forth in this Solicitation. The Selection Panel may request that one (1) or more Offerors modify their offers, provide additional information or provide a “best and final offer” for the Selection Panel’s review. Following such request, if any, the Selection Panel will select, in its sole and absolute discretion, one (1) or more offers (or if it determines in its sole discretion none of the Offers), as modified or otherwise, to recommend to the Mayor, who, in his absolute discretion, may accept the Selection Panel’s recommendations.
- 5.3.5 Upon recommendation by the Selection Panel, and if accepted by the Mayor, the ODMPED shall notify, in writing, the first selected Offeror of its selection.
- 5.4 Project Review
Required negotiations will be scheduled after selection between the ODMPED, the Office of Planning and the selected Offeror and its consultants
- 5.5 Conflict of Interest
In its response to this Solicitation, an Offeror must represent and warrant the following to the District:
 - 5.5.1 The offer has been developed and provided independently and without consultation, communication or other interaction with any other competitor for the purpose of restricting competition related to this Solicitation or otherwise.
 - 5.5.2 No person or entity employed by the District or otherwise involved in preparing this Solicitation on behalf of the District (i) has provided any information to Offeror which was not also available to all Offerors responding to this Solicitation, (ii) is affiliated with or employed by Offeror or has any financial interest in Offeror, (iii) has provided any assistance to Offeror in responding to this Solicitation, or (iv) will benefit financially if Offeror is selected in response to this Solicitation.
 - 5.5.3 The Offeror has not offered or given to any District officer or employee any gratuity or anything of value intended to obtain favorable treatment under this Solicitation or any other solicitation or other contract.



Government of the District of Columbia

- 5.5.4 Offeror has not taken any action to induce any District officer or employee to violate the rules of ethics governing the District and its employees.
- 5.5.5 Offeror has not and shall not offer, give or agree to give anything of value to any District employees, agents, job shoppers, consultants, managers or other person or firm representing the District, or to a member of the immediate family (i.e., a spouse, child, parent, brother or sister) of any of the foregoing. Any such conduct shall be deemed a violation of this Solicitation and shall automatically disqualify such Offeror's offer from consideration under this Solicitation. As used herein, "anything of value" shall include but not be limited to any (a) favors, such as meals, entertainment, transportation (other than that contemplated by this Solicitation, if any, or any other contract with the District), etc., which might tend to obligate a District employee to Offeror, and (b) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public, offers or promises of employment, loans or the cancellation thereof, preferential treatment, or business opportunity; provided that such term shall not include work or services rendered pursuant to any other valid District contract.
- 5.5.6 The Offeror shall report to the District directly and without undue delay any information concerning conduct which may involve: (a) corruption, criminal activity, conflict of interest, gross mismanagement or abuse of authority; or (b) any solicitation of money, goods, requests for future employment or benefit of thing of value, by or on behalf of any government employee, officer or public official, any Offeror employee, officer, agent, subcontractor, or labor official, or other person for any purpose which may be related to the procurement of this Solicitation by Offeror, or which may affect performance in response to this Solicitation in any way.
- 5.5.7 Neither Offeror or any subcontractor or affiliate thereof, nor any employee of any of them, shall retain any material or items of any kind salvaged from the Property as memorabilia, souvenirs or otherwise.
- 5.6 Selection Process Timetable
The selection process will follow the schedule outlined below. All offers must be submitted to the ODMPED by **December 8, 2008 at 5:00 PM**.
- 5.7 Questions and Additional Information
Any questions regarding this Solicitation should be submitted via e-mail only to yohance.fuller@dc.gov. Responses to questions, and other clarifications, will be posted on the ODMPED website, <http://dcbiz.dc.gov/>.



Government of the District of Columbia

SELECTION PROCESS TIMETABLE (SUBJECT TO CHANGE)	
Issuance of Solicitation	Wednesday, October 01, 2008
Pre-Offer Conference	Within 20 Business Days after Solicitation Issuance
Proposal Due Date (at 5:00 PM ET)	Monday, December 08, 2008
ODMPED Determination of Responsive Offers	Monday, December 15, 2008
Community Meeting	Friday, December 19, 2008
Notice of Best and Final Offers (If Needed)	Friday, January 09, 2009
Offerors' Presentations to Selection Panel	Friday, January 16, 2009
Selection of Offerer	Wednesday, January 21, 2009

5.8 Award

- 5.8.1 Following receipt of written notification from the ODMPED of the selection ("Selection Notification"), the selected Offeror shall execute a right of entry agreement with the District to allow the selected Offeror to conduct further due diligence and site studies.
- 5.8.2 The District, through ODMPED, and the selected Offeror shall negotiate a Use Agreement, which shall incorporate the requirements contained in this Solicitation and other such terms as agreed to by ODMPED and the selected Offeror. Upon completion of the parties' negotiation, ODMPED will recommend such Offeror, based on the terms agreed to in the proposed Use Agreement, to the Mayor.
- 5.8.3 If the District and the selected Offeror are unable to agree on the final terms of a Use Agreement within thirty (30) days after the date of the Selection Notification, ODMPED, in its sole and absolute discretion, may terminate negotiations and select a different Offeror from among the Offerors who submitted offers, re-issue this Solicitation or take other measures as it deems reasonable, appropriate or necessary.



Government of the District of Columbia

6 Reservation of Rights and Miscellaneous Provisions

6.1 District Reservations

The District reserves the right to:

- Cancel or withdraw the Solicitation prior to or after the submission deadline
- Modify or issue clarifications to the Solicitation prior to the submission deadline
- Reject any submission it deems incomplete or unresponsive to the submission requirements
- Consider a submission that is in noncompliance with the submission requirements
- Reject all submissions that are submitted under the Solicitation
- Modify the deadline for submissions or other actions

The District may exercise one or more of these rights, in its sole and absolute discretion.

6.2 Notice of Modifications

The District will post on its website (<http://dcbiz.dc.gov>) notices or information regarding cancellations, withdrawals, modifications to deadlines, and other modifications to this Solicitation. Offerors are responsible for checking the website for any such notices and information, and the District shall have no duty to provide direct notice to Offerors.

6.3 Changes in Offeror Information

If information provided in a submission changes (e.g., change or addition to any of the Offeror's team members or new financial information), then the Offeror shall provide updated information in the same format for the appropriate section of the Solicitation and the District will consider the modified submission. Offerors may not change the composition of their teams at any time without prior District approval, in its sole discretion. However, the District shall allow short-listed Offerors to (i) add additional LSDBE parties to their teams or (ii) increase the level of LSDBE equity and/or development participation on their teams.

6.4 Ownership and Use of Offers

All offers shall be the property of the District. The District may use any and all ideas in any offer, whether the offer is selected or rejected.

6.5 Restricted Communications

Upon release of this Solicitation and until selection of an Offeror, Offerors shall not communicate with ODMPED staff about the Solicitation or issues related to the Solicitation except as authorized in this Solicitation.



Government of the District of Columbia

6.6 Non-Binding

The selection by the District of a Offeror indicates only an intent by the District to negotiate with the Offeror and the selection does not (i) constitute a commitment by the District to execute any agreement with the Offeror and (ii) confer onto Offeror any property right, interest or expectancy.

6.7 Confidentiality

Offers and all other information submitted in response to this Solicitation are subject to the District's Freedom of Information Act ("FOIA") under D.C. Official Code § 2-531 et seq., which generally mandates the disclosure of documents in the possession of the District upon the request of any person, unless the content of the document falls within a specific exemption category. An example of an exemption category is "trade secrets and commercial or financial information obtained from outside the government, to the extent that disclosure would result in substantial harm to the competitive position of the person from whom the information was obtained."

If an Offeror provides information that it believes is exempt from mandatory disclosure under FOIA ("exempt information"), the Offeror shall include the following legend on the title page of the submission:

THIS PROPOSAL CONTAINS INFORMATION THAT IS EXEMPT FROM MANDATORY DISCLOSURE UNDER THE DISTRICT'S FREEDOM OF INFORMATION ACT ("FOIA").

In addition, on each page that contains information that the Offeror believes is exempt from mandatory disclosure under FOIA, the Offeror shall include the following separate legend:

THIS PAGE CONTAINS INFORMATION THAT IS EXEMPT FROM MANDATORY DISCLOSURE UNDER THE DISTRICT'S FREEDOM OF INFORMATION ACT ("FOIA").

On each such page, the Offeror shall also specify the exempt information and shall state the exemption category within which it believes the information falls.

ALTHOUGH THE ODMPED GENERALLY WILL ENDEAVOR NOT TO DISCLOSE INFORMATION DESIGNATED BY THE OFFEROR AS EXEMPT INFORMATION, THE ODMPED WILL INDEPENDENTLY DETERMINE WHETHER THE INFORMATION DESIGNATED BY THE OFFEROR INDEED IS EXEMPT FROM MANDATORY DISCLOSURE. MOREOVER, EXEMPT INFORMATION MAY BE DISCLOSED BY ODMPED, AT ITS DISCRETION, UNLESS OTHERWISE PROHIBITED BY LAW, AND THE DISTRICT SHALL HAVE NO LIABILITY RELATED TO SUCH DISCLOSURE.



Government of the District of Columbia

6.8 Non-Liability

By participating in the Solicitation process, the Offeror agrees to hold the District, its officers, employees, agents, representatives, and consultants harmless from all claims, liabilities, and costs related to all aspects of this Solicitation. Under no circumstances shall the District be liable for any real estate brokerage commissions, finder's fees or other forms of compensation related in any way to activities undertaken by any person as a result of this Solicitation.

6.9 Other Limiting Conditions

- 6.9.1 If at any time after the District selects an Offeror, executes a Use Agreement with the Offeror and the Offeror decides not to proceed, then the Offeror must notify the District in writing and provide reasons for its decision. The selected Offeror wishing to withdraw may be subject to the loss of part or all of the deposit posted at the time of award and may be responsible for certain costs previously waived by the District. If the District is unable to deliver the Property or its contribution to any joint venture, all deposits and any interest earned will be returned to Offeror and the District shall be released from any and all further liability.
- 6.9.2 This Project is expected to “stand alone”; thus, the Offeror is prohibited from cross collateralizing and cross defaulting the project with any other assets. Moreover, the Offeror is prohibited from assigning, pledging, hypothecating or otherwise transferring its interest in the net cash flows or ownership of the Project in part, or in its entirety, without prior District approval. Any additional debt shall require prior written District approval. This limitation shall apply until final completion of the Project.
- 6.9.3 The District has the right to begin negotiations with the next preferred Offeror in the event that a Use Agreement cannot be executed within the allotted period of negotiations with a prior selected Offeror. The District may terminate, in its sole and absolute discretion, negotiations with any Offeror if such Offeror introduces comments or changes to a Use Agreement that are inconsistent with its previously submitted offer materials.
- 6.9.4 In the course of best and final negotiations between the parties, the District reserves the right, in its sole discretion, to make and memorialize modifications to any offer in the form of a Memorandum of Understanding between the District and the Offeror.
- 6.9.5 The District is subject to various laws, rules, policies and agreements that impose legal and ethical constraints upon current and former District employees and consultants with regard to post-employment restrictions vis a vis such employee's or consultant's involvement in District-led projects. In particular, restrictions include:



Government of the District of Columbia

- (1) All Offerors, its members, agents, or employees, are prohibited from: (i) making offers of employment, (ii) conducting any negotiations for employment, (iii) employing or, (iv) entering into contracts of any sort, with current employees, consultants, or contractors to the District, who are personally and substantially involved in any aspect of this Project whatsoever.
- (2) Offerors must disclose in their initial Offers, the names of any member, employee, contracted agent, or consultant who within three (3) years prior to the publication of this Solicitation, were District employees, consultants, or contractors to the District. On a going forward basis, Offerors will be required to provide the District with regular and periodic notices of any and all new hires of employees, contracted agents, or consultants within five (5) days of any such hire.
- (3) This Section 5.9.6 shall apply to all Offerors during the conduct of this competition, and will subsequently apply to a selected Offeror until such time as final completion of development of the Project.
- (4) Required disclosures and notices notwithstanding, failure to comply with any obligation described in this Section 5.9.6 may result, in the District's sole and absolute discretion, in the Offeror's disqualification from consideration under this Solicitation, the rescission of the Offeror's award, and/or termination of any agreement between the Offeror and the District.